

MDR Tracking Number: M5-05-0877-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-15-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work conditioning initial and each additional hour were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 7th day of January 2005.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby **ORDERS** the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 08-02-04 through 08-27-04 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 7th day of January 2005.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh

Enclosure: IRO decision



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Specialty Independent Review Organization, Inc.

January 3, 2005

Hilda Baker  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-05-0877-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

### CLINICAL HISTORY

Ms. \_\_\_ was injured in a work related accident on \_\_\_ while working for \_\_\_\_\_. The patient was pushing a table that held 150 glasses (records say 150 and 250) full of iced tea when the table broke. Ms. \_\_\_ attempted to hold the table to try to prevent the glasses from falling. A co-worker who came to help her slipped on the wet floor and fell on Ms. \_\_\_, causing her to fall to the floor. She initially presented to Concentra Medical center. Concentra, according to the records, took x-rays, prescribed medications and physical therapy. She subsequently initiated care with Dr. Brando-Halsey. Dr. Brando initiated a course of conservative care with the patient. The patient was diagnosed with left shoulder internal derangement, lumbar sprain/strain with radicular complaints to the left leg, thoracic strain, left arm/wrist contusion, and possible left rotator cuff tear. An MRI to the lumbar spine was performed showing multiple level disc injuries. An MRI of the left shoulder showed tendinosis of the supraspinatus and infraspinatus tendons with associated bursitis, Type II SLAP lesion and partial tearing of the biceps tendon. The patient subsequently saw Dr. Masson for her shoulder injuries and injections to the left shoulder. Later the patient saw Dr. Cupic for an orthopedic evaluation. Additionally, the patient saw Dr. Kalisky for an Independent Medical Examination. Dr. Nachimson evaluated the patient as a Designated Doctor on July 2, 2004 and stated that the patient was not at MMI. Ms. \_\_\_ also saw Dr. Sanders on August 23, 2004 for an evaluation. During the patient's treatment, she was placed under various return to work restrictions. In this particular review the patient was restricted to light duty for 4 hours per day during the dates of service under review.

Numerous treatment notes, diagnostic tests, staffing notes, evaluations, and other documentation were reviewed for this file. Records were received from the insurance carrier and from the treating providers.

Records included but were not limited to:  
Medial Dispute Resolution paperwork  
Records from Dr. Toy Brando-Halsey  
Multiple TWCC 73's  
Records from Monarch Pain Care & Rehabilitation Center  
Records from Dr. Cupic  
Record from Dr. Kalisky  
Therapy Prescription from Dr. Masson  
Records from Dr. Masson  
FCE dated June 15, 2004  
Report from Diagnostic Radiology of Houston  
Designated Doctor report from Dr. Nachimson  
Report from Dr. Sanders

#### DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of (97545-WC-CA and 97546-WC-CA) work conditioning from 8-2-2004 through 8-24-2004.

#### DECISION

The reviewer disagrees with the previous adverse determination.

#### BASIS FOR THE DECISION

The basis for the determination is based upon the Medical Disability Advisor, 1996 Medical Fee Guidelines specific to Work Conditioning, Industrial Rehabilitation-Techniques for Success, and Occupational Medicine Practice Guidelines. Specifically, a Work Conditioning program should be considered as a goal oriented, highly structured individualized treatment program. The program should be for persons who are capable of attaining specific employment upon completion of the program and not have any other medical, psychological, or other condition that would prevent the participant from successfully participating in the program. The patient should also have specifically identifiable deficits or limitations in the work environment and have specific job related tasks and goals that the Work Conditioning program could address.

The patient had specifically identifiable functional limitations due to her injury. This is identified in the patient's FCE. The patient had an FCE prior to entering into the work conditioning program and also had an exit FCE. Although the patient did not make significant gains in the FCE, there are some improvements. The patient's functional abilities increased in regards to the job PDL regarding lifting and their pain scales and pain locations diminished. Also noted is that the patient was attending work conditioning for four hours per day and was working for the other four hours per day. The patient is identified as a waitress and without proper retraining Ms. \_\_\_ could become permanently disabled and unable to return to the

workforce as a contributing member of a society. Dr. Kalisky as an IME doctor, who examined the patient, commented that the patient could benefit from a work conditioning program. The treating doctor also recommended the work conditioning program and the Designated Doctor, Dr. Nachimson, also commented that the patient could benefit from a work conditioning program. The treating doctor, IME doctor, and Designated Doctor all supported the work conditioning program. Dr. Sanders, as an IME, dissented to this opinion stating that the patient did not need any additional care. But Dr. Sanders also states in his opinion that FCE's are unnecessary tests that rarely give any useful information. Functional Capacity Evaluations are tests that are widely recognized and accepted, including by TWCC, to objectively quantify an injured employee's functional abilities. FCE's are commonly used to determine entrance and exit data for return to work programs.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director